

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ELLA MAE WAY and U.S. POSTAL SERVICE,
POST OFFICE, New York, N.Y.

*Docket No. 97-807; Submitted on the Record;
Issued December 29, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has established that her recurrence of disability on or after September 12, 1995 was causally related to her accepted conditions of bilateral sprain of the shoulders and bilateral knee strain.

The Board has duly reviewed the case record and finds that appellant has failed to establish that she sustained a recurrence of disability causally related to her May 20, 1994 work injury.

Under the Federal Employees' Compensation Act,¹ an employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.² As part of this burden the employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related injury,³ and supports that conclusion with sound medical reasoning.⁴

Thus, the medical evidence must demonstrate that the claimed recurrence of disability was caused, precipitated, accelerated or aggravated by the accepted injury.⁵ In this regard,

¹ 5 U.S.C. §§ 8101-8193.

² *Dennis J. Lasanen*, 43 ECAB 549, 550 (1992).

³ *Kevin J. McGrath*, 42 ECAB 109, 116 (1990).

⁴ *Lourdes Davila*, 45 ECAB 139, 142 (1993).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

medical evidence of bridging symptoms between the recurrence of disability and the accepted injury must support the physician's conclusion of a causal relationship.⁶

In this case, appellant, then a 60-year-old postal clerk, fell and hurt her knees and arms while in the performance of her duties on May 20, 1994. The Office of Workers' Compensation Programs accepted the claim for bilateral sprain of the shoulders and bilateral sprain of the knees and paid appropriate benefits. The record indicates that appellant sought initial treatment from Dr. Paul Hobeika, a Board-certified orthopedist. In a January 26, 1995 medical report, Dr. Hobeika stated that appellant could return to work for limited duty sitting for four hours per day, but she could not do any reaching overhead. He further stated that appellant required an arthroscopic acromioplasty of her left shoulder.

Following referral by the Office, Dr. Robert L. Swearingen, a Board-certified orthopedist, provided a second opinion evaluation. In a February 23, 1995 report, he concluded that appellant had degenerative changes in the shoulders as expected with her age and that the fall on May 20, 1994 may have exacerbated her condition. Upon examination, Dr. Swearingen found no evidence that the condition was any different had she not fallen. He concluded that appellant could work, but with the degenerative changes in her shoulder, she may have difficulty working overhead.

In a job offer dated February 1995, the employing establishment noted that Dr. Hobeika stated appellant was able to work four hours per day, with no lifting or kneeling, could reach for five minutes per hour, could perform repetitive motions of the wrist and elbow and was limited in fine motor movements of the upper extremities. The limited-duty position offered involved inputting data into Times computer and stated that no lifting, kneeling or reaching was involved. On March 20, 1995 he stated that appellant could accept the employing establishment's job offer. Dr. Hobeika noted appellant should "try to avoid working overhead."

Appellant returned to work for four hours a day on March 21, 1995 and worked for three days before stopping work.⁷ Appellant returned to work on September 13, 1995 and continued to work until November 1995.

On September 13, 1995 appellant filed a notice of recurrence of disability on September 12, 1995 claiming that "both shoulders keep hurting very bad and knees." She also stated that she was feeling so bad that her doctor advised her to only work four hours a day. On the reverse side of the claim form, appellant's supervisor noted that appellant was placed on limited duty and worked four hours a day until appellant felt that she could work an entire day. By letter dated September 22, 1995, the Office advised appellant to submit additional medical and factual information.

On September 12, 1995 Dr. Ramon Valderrama, a Board-certified neurologist, submitted a medical note indicating that appellant should work only four hours per day.

⁶ *Leslie S. Pope*, 37 ECAB 798, 802 (1986); cf. *Richard McBride*, 37 ECAB 748, 753 (1986).

⁷ The record reflects that appellant stopped work and claimed a recurrence of total disability beginning March 24, 1995. By decision dated June 27, 1995 and finalized June 28, 1995, the Office denied the recurrence claim. By decision dated August 1, 1995, the Office terminated effective August 19, 1995 compensation and medical benefits for the conditions of bilateral sprain shoulders tendinitis and bilateral knee strain.

By decision dated October 25, 1995, the Office denied the claim on the grounds that the medical evidence of file failed to establish a causal relationship between the accepted injury and the claimed recurrence of disability. The Office noted that the weight of the medical evidence continued to rest with Dr. Swearingen's report which indicated that the accepted conditions had resolved and that the disability resulting from factors of employment had ceased.

Appellant requested a hearing, which was held on June 17, 1996. She testified that when she returned to work in her limited-duty position for three days in March 1995, she was boxing mail. Appellant further testified that when she returned to work on September 13, 1995 she was boxing mail for six to eight hours a day. She stated that the work required reaching overhead, above her shoulders. Appellant continued to work until November 1995. Her representative advanced several arguments.

In a July 11, 1996 report, Dr. Hobeika stated that following the injury of May 20, 1994, appellant was treated conservatively and slowly improved. Appellant returned to work on March 21, 1995 and was advised to stop working again. It was established that appellant had carpal tunnel syndrome which was related to the repetitive motion she had on the job in the post office. Dr. Hobeika stated that it was his opinion that appellant's symptoms of tendinitis and knee problems which she suffered after the accident of May 20, 1994 prevented her from working and when she returned to work on March 21, 1995 her symptoms returned because of the repetitive motion she has to do on the job. He also opined that appellant's carpal tunnel syndrome and cervical tendinitis were passive before the injury and that the injury brought them to light and she became painful. Dr. Hobeika stated that it was his opinion that appellant should have a job which does not require as much extremity motion and repetitive motion.

In an August 16, 1996 report, Dr. Ramon Valderrama stated that appellant suffered from a fall at work in 1994 and that this could be a contributing factor to her condition. He noted that carpal tunnel syndrome could be consistent with the repetitive motion appellant has to perform in her work as a postal worker. In the same report, Dr. Valderrama stated that the incident of May 20, 1994 was a contributing factor to the cervical radiculopathy but not to the carpal tunnel syndrome.

In an October 26, 1996 report, Dr. Valderrama stated that appellant is suffering from hypertension, diabetes, cervical and lumbar radiculopathy, carpal tunnel syndrome and possible peripheral neuropathy diabetes.

In a decision dated September 27, 1996, the hearing representative denied the claim on the grounds that appellant had failed to establish that her recurrence of disability was causally related to the May 20, 1994 accepted work-related injuries.

The Board finds that none of the medical reports submitted address the issue of whether appellant's claimed recurrence of disability on and after September 12, 1995 is causally related to the May 20, 1994 accepted work-related injuries of bilateral shoulder sprain and bilateral knee strain. Dr. Hobeika stated in his July 11, 1996 report that, appellant's symptoms of tendinitis and knee problems which she suffered after the accident of May 20, 1994 returned because of the repetitive motions she had to do on the job. He then stated that appellant's carpal tunnel syndrome and cervical tendinitis were passive before the injury and that the injury brought them to light and she became painful. While Dr. Hobeika provided a causal connection between appellant's work and the 1994 incident, he offered no rationale for concluding that appellant's

subsequent symptoms and new conditions of carpal tunnel syndrome and cervical tendinitis were related to the initial accepted injury.⁸ Dr. Valderrama noted that appellant's 1994 fall at work "could be" a contributing factor to appellant's cervical radiculopathy condition, but not to the carpal tunnel syndrome. Although he provided a causal connection, like Dr. Hobeika, he failed to provide a rationale as to how appellant's 1994 injury "could be" a contributing factor to appellant's cervical radiculopathy condition.⁹

Appellant has attributed her current problems of cervical radiculopathy and carpal tunnel syndrome to the May 20, 1994 work injury and was informed by the Office that she was responsible for obtaining a rationalized medical report in support of the September 1995 recurrence of disability. However, appellant has failed to submit medical evidence which discusses her current conditions and the accepted conditions of bilateral shoulder sprain and bilateral knee strain, and then explains with medical rationale how the September 1995 recurrence of disability was a progression of or related to the employment-related injury in 1994. Inasmuch as appellant has failed to submit probative medical evidence establishing the required connection, the Office properly denied her claim for compensation.

The decision of the Office Workers' Compensation Programs dated September 27, 1996 is affirmed.

Dated, Washington, D.C.
December 29, 1998

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

⁸ See *Margarette B. Rogler*, 43 ECAB 1034, 1039 (1992) (finding that a physician's opinion that provides no medical rationale for its conclusion on causation is of diminished probative value).

⁹ *Id.*